



DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI

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WAILUKU, MAUI, HAWAII 96793

TELEPHONE: (808) 270-7740 FAX (808) 270-7152

January 30, 2002

MEMO TO: The Honorable Alan M. Arakawa
Chair, Land Use Committee

F R O M: Richard K. Minatoya *Richard K. Minatoya*
Deputy Corporation Counsel

SUBJECT: Change in Zoning, Community Plan Amendment, and District
Boundary Amendment for Proposed Waiolani Elua Subdivision
(Waikapu) (LU-35)

This memorandum is made in response to your memorandum dated January 11, 2002. In your memorandum, you requested written confirmation of our verbal opinion that the State Historic Preservation Division (SHPD) was not required by state or federal law to conduct an on-site archaeological inventory survey of the subject property.

We checked Title 16 of the United States Code and found no such requirement. Further, as we informed your committee, §6E-42 of the Hawaii Revised Statutes (HRS) provides:

§ 6E-42. Review of proposed projects.

(a) Before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places.

(b) The department shall inform the public of any project proposals submitted to it under this section which are not otherwise subject to the requirement of a public hearing or other public notification.

The Honorable Alan M. Arakawa
January 30, 2002
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(Emphasis added).¹ Thus, as with federal law, the HRS does not require the SHPD to conduct an on-site archaeological inventory survey.

As evidenced by the May 23, 2001 letter from SHPD to the Department of Planning, SHPD was given the opportunity to review the proposed project and to offer comments. A copy of the May 23, 2001 letter is attached. We suggest that if you have further questions on this matter, you should contact Mr. Don Hibbard, Administrator of SHPD, at (808) 692-8015.

Please contact me at x7740 if you have further questions or concerns.

Attachment

APPROVED FOR TRANSMITTAL:



JAMES B. TAKAYESU
Corporation Counsel

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¹ HRS § 6E-43 does not apply.

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BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



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DEPARTMENT OF LAND AND NATURAL RESOURCES

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May 23, 2001

Mr. John E. Min, Planning Director
Department of Planning - Maui County
250 South High Street
Wailuku, Hawaii 96793

LOG NO: 27536 ✓
DOC NO: 0105CD18

Dear Mr. Min,

SUBJECT: Chapter 6E-42 Historic Preservation Review Pertaining to the Applications for Community Plan Amendment, District Boundary Amendment, and Change in Zoning, and the Draft Environmental Assessment for the Proposed Waiolani Elua Subdivision (Subject I.D.: CPA 2001/0002, DBA 2001/0001, CIZ 2001/0002) Waikapu Ahupua'a, Wailuku District, Island of Maui TMK: 3-5-04: 095

Thank you for the opportunity to comment on the applications for Community Plan Amendment (CPA), District Boundary Amendment (DBA), Change in Zoning (CIZ), and Draft Environmental Assessment (DEA) for the proposed Waiolani Elua Subdivision. Our review is based on reports, maps, and aerial photographs maintained at the State Historic Preservation Division; no field inspection was made of the subject property.

From the submitted documents, we understand the proposed Waiolani Elua Subdivision consists of the development of approximately improved 25 lots (each a minimum of 7500 sq. ft) abutting the existing Waiolani Subdivision. In addition, this project would link Ho'okahawai Street and Mo'ohela Street, which we understand, are existing roadways within the Waiolani Subdivision. The proposed roadways within the project area would include 44-foot right-of-ways with curbs, gutters, and sidewalk on one side of the street.

We have commented previously in response to a Grading Review and Work on County Highway Permit Applications (SHPD DOC NO.: 0010CD32/LOG NO.: 26432). At that time we stated the following:

A search of our records indicates the subject property has not undergone an archaeological inventory survey. The general area seems likely to have once been the location of pre-Contact farming, perhaps with scattered houses. However, no significant historic sites were identified during archaeological inventory surveys, which included subsurface testing, conducted on adjacent properties. The subject property has been subjected to considerable alteration due to modern commercial agriculture. Therefore, we believe it is unlikely that significant historic sites will be encountered during the proposed undertaking.

Given the above information, we believe the proposed undertaking will have "no effect" on significant historic sites.

Please call Cathleen Dagher at 692-8023 if you have any questions.

Aloha,


Don Hibbard, Administrator
State Historic Preservation Division

CD:jen

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